

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

MICHAEL SIMS, Register No. 500526,)	
)	
Plaintiff,)	
)	
v.)	No. 05-4273-CV-C-SOW
)	
COOPER COUNTY, MO., et al.,)	
)	
Defendants.)	

ORDER

On August 30, 2007, United States Magistrate Judge William A. Knox recommended that defendants' motions for summary judgment be granted and plaintiff's claims be dismissed. The parties were advised they could file written exceptions to the recommendation, pursuant to 28 U.S.C. § 636(b)(1)(C).

The court has conducted a de novo review of the record¹, including the objections to the recommendation and request for additional time filed by plaintiff on September 14, 2007, and motion for sanctions also filed on that same date. Upon review, the issues raised were adequately addressed in the report and recommendation. No reasonable jury could find that defendants were deliberately indifferent to plaintiff's medical needs in violation of his constitutional rights under the Eighth Amendment. Further, as noted in the Report and Recommendation, plaintiff has had adequate opportunity to respond to defendants' motions for summary judgment. Plaintiff's request for additional time and sanctions are denied. The court is persuaded that the recommendation of the Magistrate Judge is correct and should be adopted.

Inmates who file an appeal with the United States Court of Appeals for the Eighth Circuit are required to pay the full \$455.00 appellate filing fee, regardless of the outcome of

¹Court proceedings, if any, are recorded by electronic recording equipment and the tapes are available for review by the court and counsel.

the appeal. Henderson v. Norris, 129 F.3d 481, 484 (8th Cir. 1997). The filing of a notice of appeal is considered a consent by the inmate to allow prison officials to deduct an initial partial appellate filing fee and later installments from the prisoner's account.

IT IS, THEREFORE, ORDERED that the Report and Recommendation of August 30, 2007, is adopted. [93] It is further

ORDERED that plaintiff's motion for sanctions is denied. [96] It is further

ORDERED that plaintiff's remaining official capacity claims against defendant Eatherton are dismissed. It is further

ORDERED that defendant Eatherton's motion to dismiss is denied as moot. [60] It is further

ORDERED that defendants' motions for summary judgment are granted and plaintiff's claims are dismissed. [53, 82, 85].

/s/Scott O. Wright

SCOTT O. WRIGHT

Senior United States District Judge

Dated: September 19, 2007